

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:12-cv-36-MR-DLH**

**UNITED STATES OF AMERICA, )**

**Plaintiff, )**

**vs. )**

**DISMISSAL ORDER**

**FRANCES CARLSON, REIDAR )**

**G. CARLSON, and REIDAR'S )**

**RETREAT, LLC, )**

**Defendants. )**

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**THIS MATTER** is before the Court on the Defendants' Motion to Dismiss. [Doc. 48]. Defendants seek the dismissal of this action, and additionally, they seek the reimbursement of costs and fees for the preparation of their dismissal motion due to the Plaintiff's alleged "bad faith" in failing to immediately dismiss this action following the Eleventh Circuit's vacature of the underlying judgment entered in the Middle District of Florida. [Id. at 3].

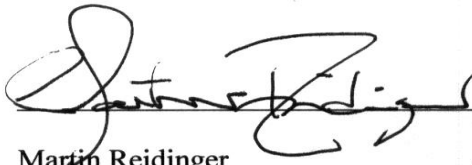
The Plaintiff has responded to Defendants' motion by filing a written Response [Doc. 49] and Brief. [Doc. 50]. Plaintiff indicates in its Response that it "does not oppose the immediate dismissal of this action without prejudice." [Doc. 49 at 4]. However, Plaintiff objects to the Defendants' request for an award of fees and costs, asserting that its time within which to seek further review of the Eleventh Circuit's decision has not expired, the appeal is therefore not final, and, consequently, its obligation to dismiss this matter, if any exists, has not come to pass. Finally, Plaintiff points out that Defendants have cited no authority for the monetary relief they request.

Having considered the Defendants' motion, the Court determines that this matter should be dismissed without prejudice. As to this issue of costs and fees, the Plaintiffs have articulated no legal authority by which they are entitled to seek such. In addition, they have not provided anything showing that they were prejudiced by the Plaintiff having deferred seeking dismissal of this case pending the final mandate of the Eleventh Circuit in the underlying case. For these reasons the Court will deny the Defendants' motion as it pertains to costs and fees. The parties shall bear their own costs.

**IT IS, THEREFORE, ORDERED** that the Defendants' Motion to Dismiss [Doc. 48] is **GRANTED in part**, and this matter is dismissed **without prejudice**. Except as granted, the Motion is **DENIED**.

**IT IS SO ORDERED.**

Signed: July 29, 2014

  
Martin Reidinger  
United States District Judge

